

1 | evidence involved --

2 |

3 | MR. BROWN: Yes.

4 | JUDGE SIPPEL: -- as opposed to general charges and
5 | this type of thing, or who's got the burden of proof and all
6 | that.

7 | MR. BROWN: Oh, yes.

8 | JUDGE SIPPEL: All right? And those -- I would like
9 | to see you get those out by the 10th of February. I think you
10 | could probably do it before then, but by the 10th of February.

11 | MR. BROWN: We can meet the 10th of February.

12 | JUDGE SIPPEL: I think what I'll probably -- I will
13 | get a written Order out on this and then I will do as I
14 | will -- I will identify the paragraphs that I'm referring to
15 | so that there's no question in either side's mind. But I know
16 | you know what I'm talking about.

17 | MR. BROWN: I do.

18 | JUDGE SIPPEL: All right. And as I've indicated in
19 | the beginning, the primary responsibility that the Bureau has
20 | is getting their case ready. So I'm not going to permit them
21 | to be in any way harassed or -- this is not going to distract
22 | them from what they're doing. They'll have certainly the
23 | required -- the permitted period of time to respond to those.
24 | And if these can be used as -- I'm hoping -- what I'm hoping
25 | here, and I want to ask Mr. Schonman to listen to me on this.

1 MR. SCHONMAN: Yes, sir.

2 JUDGE SIPPEL: What I'm hoping is that you receive
3 these Interrogatories, that these become a vehicle for working
4 out more in terms of giving them the information in some
5 useable form as opposed to necessarily having to just formally
6 respond to Interrogatories. In other words, this will trigger
7 you in terms of what it is that they want to know, and perhaps
8 it could be -- informally a lot of these questions can be
9 answered without having to get into the need for filing formal
10 Answers and going through Motions to enforce and this type of
11 thing. So --

12 MR. SCHONMAN: Your Honor, I appreciate what you're
13 saying, but I have to keep in mind that Interrogatories which
14 are served on Commission personnel are governed by particular
15 rules --

16 JUDGE SIPPEL: That's right.

17 MR. SCHONMAN: -- in Part One, and under those
18 circumstances we certainly are restricted in what it is we are
19 allowed by this agency to provide. So in that regard, we will
20 have to respond accordingly.

21 JUDGE SIPPEL: Absolutely. But I'm using this as an
22 in -- I'm also permitting it to be used as an invitation to
23 efficiently get this case ready for trial, and I think it's
24 very helpful to the government to know what they have in mind.
25 They're going to have put these things down very specifically

1 and I'm limiting them to ten a paragraph, so they're not going
2 to -- this is not going to be a game of making you chase down
3 things at all. But I'm listening to what you say very
4 carefully and I understand that. But I'm hoping that this is
5 going to be the start of their -- their discovery. At some
6 point in time they're going to be entitled to some discovery.
7 And -- but I'm not going to go beyond this at this particular
8 point except I'm going to ask Mr. Brown again. Beyond that,
9 what would you feel you would need? Before seeing the
10 Bureau's case, which you're going to see before you have to
11 put yours on, what else would you think that you would need?

12 MR. BROWN: Well, we would, at the minimum, want to
13 depose the -- whomever the Commission had in mind putting on.

14 JUDGE SIPPEL: You mean, anybody that they want to
15 call as a witness?

16 MR. BROWN: Yes.

17 JUDGE SIPPEL: Well, you're going to be able to
18 cross-examine those people, and you're going to have their
19 statements -- not their statements, but you're going to have a
20 summary of what they're going to testify to.

21 MR. BROWN: I understand that.

22 JUDGE SIPPEL: Well, we'll have to just -- we'll
23 have to cross that when we come to it. I mean, I'm going to
24 tell you that I'm going to be very -- I'm going to look very
25 closely at requests to depose those types of witnesses. Now,

1 as I -- I'm -- I'll have to wait and see what the nature of
2 their testimony is myself, but I don't want this case to get
3 bogged down with a lot of deposition taking.

4 MR. BROWN: Nor do we.

5 JUDGE SIPPEL: Unless -- nor do you, all right.
6 Well, I'm -- I understand that you have interests that may be
7 different from the Bureau's interests with respect to those
8 witnesses, and I'm not interested in protecting witnesses.
9 I'm just interested in being sure that there's no depositions
10 taken unless I'm convinced that they have to be taken.

11 MR. BROWN: I understand entirely.

12 JUDGE SIPPEL: All right. All right. Well, I -- I
13 will work with these -- with these dates. I'm not going to
14 issue an Order on them today except -- with the exception of
15 the Order with respect to Mr. Kay's discovery. I'm going to
16 get that out -- hopefully get that out to you today so that
17 you can get that -- well, you'll get it started anyway.

18 I don't know, I'm -- I'm -- does either party have
19 anything more that they want to bring up this morning?

20 MR. SCHONMAN: I can't think of anything, Your
21 Honor.

22 JUDGE SIPPEL: Okay. All right. Well, this will be
23 the -- this will be the schedule that we'll be working
24 towards, that is towards the hearing to start on the 17th of
25 July. And in the meantime, I'm going to require the Bureau to

1 let me know by the end of next week, which will be February
2 the 3rd, of a -- and this will be after consultation with Mr.
3 Brown, of a starting date for the hearing in Los Angeles, and
4 your best estimate at this time as to how long we would have
5 to be out there so that I can make -- have our office get the
6 process going to reserve appropriate courtroom space.

7 MR. SCHONMAN: We'll be happy to do that, Your
8 Honor.

9 JUDGE SIPPEL: That's fine. So that's the next two
10 -- February 3rd and February the 10th are the two most
11 immediate dates, and I will get an appropriate Order out
12 regarding what we've discussed and done today. And I have --
13 I'm sure you're all waiting for these. I have copies of my
14 rulings that I signed yesterday with respect to the four
15 Motions that you have, and I will get a ruling out today on
16 your request for appeal -- interlocutory appeal, and you want
17 us to notify your office when those are ready?

18 MR. BROWN: Would you please, Your Honor?

19 JUDGE SIPPEL: We'll do that. We'll do that. All
20 right, then that's it then. We are -- we are in recess until
21 my next call, or until -- until the first of the procedural
22 date. Well, I'm sure that we -- I get the feeling that we
23 will be meeting before then. Thank you very much.

24 MR. BROWN: Thank you very much.

25 MR. SCHONMAN: Thank you, Your Honor.

1 JUDGE SIPPEL: You're welcome.

2 (Whereupon the conference was adjourned at 10:17 a.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

In the Matter of: James A. Kay, JR.

Name

WT 94-147
Docket No.

Washington, DC
Place

January 27, 1995
Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 55, inclusive, are the true, accurate and complete transcript prepared from the reporting by BARBARA LORD in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

2/5/95
Date

Deborah H. Powers
Deborah H. Powers, Transcriber
Free State Reporting, Inc.

2/5/95
Date

Debbie Serio
Debbie Serio, Proofreader
Free State Reporting, Inc.

2/5/95
Date

Barbara Lord
Barbara Lord, Reporter
Free State Reporting, Inc.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area 261-1902
Balt. & Annap. 974-0947